

LARIVIERE, GRUBMAN & PAYNE, LLP
Robert W. Payne, Esq. (CA Bar No. 073901)
Nicole A. Smith, Esq. (CA Bar No. 243823)
19 Upper Ragsdale Drive, Suite 200
P.O. Box 3140
Monterey, CA 93942-3140
Telephone: (831) 649-8800
Facsimile: (831) 649-8835

Attorneys for Plaintiff
MONSTER CABLE PRODUCTS, INC.

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RICHARD W. WIEKING
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U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MONSTER CABLE PRODUCTS, INC.
a California corporation,

Plaintiff,

vs.

MONSTER DADDY LLC, a corporation, and
DOES ONE through TWENTY inclusive,

Defendants.

C07 03272 EMC

COMPLAINT FOR DECLARATORY
RELIEF

1. Subject matter jurisdiction is proper in this Court pursuant 15 U.S.C § 1114 et seq. and 28 U.S.C § 1331 and 1338.

2. This Court has personal jurisdiction over Defendants, which are located within and doing business in the State of California and this District. Venue is proper in this Court under 28 U.S.C. §1391 (b) and (c).

3. Plaintiff is a corporation organized and existing under the laws of the State of California, having a principle place of business in Brisbane, California.

4. On information and belief, Plaintiff alleges that Defendant MONSTER DADDY, LLC (hereafter, "MDL" or "Monster Daddy") is a limited liability company organized under the laws

COMPLAINT FOR DECLARATORY
RELIEF

1 of the State of South Carolina, with its principal place of business in Greenville, South Carolina.

2 5. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as
3 DOES ONE through TWENTY, inclusive and therefore sues said Defendants by such fictitious
4 names. Plaintiff will amend this counterclaim when the true names and capacities of said
5 Defendants have been ascertained. Plaintiff is informed and believes and thereon alleges that
6 DOES ONE through TWENTY, inclusive, and each of them, are legally responsible in some
7 manner for the events and happenings referred to herein, and proximately caused or contributed
8 to the injuries and damages to Plaintiff as herein alleged.

9 6. Plaintiff is informed and believes and thereon alleges that each and every Defendants
10 was the agent and employee of each of the remaining Defendants, and in doing the things herein
11 alleged acted within the course and scope of said agency and employment.

12 7. Beginning in or about August of 1978, and continuing to date, Plaintiff has been doing
13 business in the United States and abroad, using in commerce the mark "MONSTER" and related
14 marks as a trademark in connection with a wide range of products, including but not limited to,
15 electrical, audio, video, clothing, musical, household and cleaning items and thereafter on related
16 items.

17 8. Plaintiff has acquired trademark and service mark rights to the mark "MONSTER,"
18 and related marks, both at common law from and after said date and further by virtue of
19 registrations with the United States Patent and Trademark Office. Plaintiff additionally has an
20 extensive "MONSTER" family of marks using the "Monster" stem word, which has grown since
21 1978, including but not limited to the following:

22 a. U.S. Trademark Registration No. 1,340,229, for the mark "MONSTER
23 CABLE" for "Musical and voice signals transmitting cable and connectors therefore" in
24 International Class 9 having a date of first use of May 18, 1978.

25 b. U.S. Trademark Registration No. 1,342,164 for the mark "MONSTER
26 CABLE" for "Electrical signal transmitting cable and connectors therefore" in International Class
27 9 having a date of first use of May 18, 1978.

1 9. On or about June 12, 2007, Defendant's counsel sent a threatening ultimatum letter to
2 Plaintiff's counsel, received in the Northern District of California, accusing Plaintiff of having
3 fraudulently registered one or more "Monster" trademarks. The letter threatens to file suit or
4 otherwise to proceed officially to seek cancellation of all such registrations.

5 10. As a result of Defendant's accusations in the ultimatum letter of said date, Plaintiff
6 has and continues to have reasonable apprehension that Defendant will file suit for infringement
7 of one or more of the aforementioned matters.

8 11. Monster has not fraudulently sought to register any trademark and has diligently
9 sought to correct existing registrations to accurately reflect correct usage of the marks in question.
10 Defendant has made such accusations in bad faith.

11 12. There is an actual and continuing justiciable controversy within this district between
12 Plaintiff and Defendant as to Plaintiff's right to threaten or maintain suit for cancellation of one
13 or more of said aforementioned trademarks, and as to the scope and viability of said registrations.

14 13. Plaintiff is entitled to a declaratory judgement that it has not fraudulently sought , and
15 is not fraudulently maintaining, and registered trademarks.

16 WHEREFORE, Plaintiff Monster Cable respectfully requests that this Court enter a
17 judgment in its favor and against Defendant as follows:

18 1. Declaring that Defendant Monster Daddy is without right or authority to threaten
19 or maintain suit against Monster Cable or to file any proceeding in the U.S. Trademark Trials and
20 Appeal Board to cancel any U.S. "Monster" trademark registration.

21 2. Declaring this to be an "exceptional case" within the meaning of 35 U.S.C. §285
22 and awarding costs and reasonable attorney fees incurred by Monster Cable herein.

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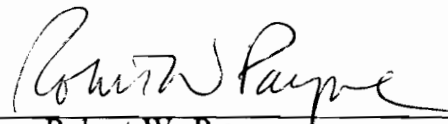
1 3. Such other and further relief as the Court may deem appropriate.
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3 Dated: June 20, 2007

4 Respectfully submitted,
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6 LARIVIERE, GRUBMAN & PAYNE, LLP
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9 By



10 Robert W. Payne
11 Attorneys for Plaintiff
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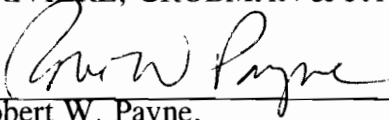
CERTIFICATION OF INTERESTED ENTITIES AND PARTIES

Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed persons, associations of persons, firms, partnerships, corporations (including parent corporations) or other entities (i) have a financial interest in the subject matter of the controversy or in a party to the proceeding, or (ii) have a non-financial interest in the subject matter or in a party that could be substantially affected by the outcome of this proceeding: No such interest is known other than the named parties, their shareholders and counsel in this action.

Dated: June 20, 2007

LARIVIERE, GRUBMAN & PAYNE, LLP

By


Robert W. Payne,
Attorneys for Plaintiff